IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

FRIDAY, THE 8TH JUNE 2007 / 18TH JYAISHTA 1929

WP(C).No. 11052 of 2007(N)

CMA.47/2006 of I ADDL. DISTRICT COURT, PALAKKAD
OS.26/2006 of MUNSIFF COURT, CHITTUR

.....

PETITIONER:

---

1. MADHAVI, W/O. NARAYANAN,

2. GOPIDAS, S/O. NARAYANAN,
BOTH ARE RESIDING AT KOOTHAMPAKKIL, VADAVANNUR VILLAGE, CHITTUR TALUK, PAPAKKAD.

BY ADV. SRI.V.CHITAMBARESH
SRI.T.C.SURESH MENON
SRI.JIBU P THOMAS
SRI.SUNIL J.CHAKKALACKAL

RESPONDENTS:

KUPPANDI, S/O. CHAMUNNI,
RESIDING AT KOOTHAMPAKKIL, VADAVANNUR VILLAGE, CHITTUR TALUK, PALAKKAD DISTRICT.

BY ADV. SRI.A.K.MADHAVAN UNNI
SRI.S.RAMACHANDRAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 08/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXTS:

EXT.P1: TRUE COPY OF THE ORDER IN I.A.116/06 IN O.S.NO: 26/2006 ON THE FILE OF THE COURT OF THE MUNSIFF OF CHITTUR DT.12.4.2006

EXT.P2: -DO- OF THE ORDER IN C.M.A. 47/06 ON THE FILE OF THE COURT OF THE DIST. JUDGE OF PALAKKAD DT. 26.7.2006

jj /TRUE COPY/

P.S.TO JUDGE

M.N.KRISHNAN, J.

WP(C)No. 11052 OF 2007 N

Dated this the 8th June, 2007.

JUDGMENT

This writ petition is filed seeking to quash Ext.P2 order and to dismiss I.A.116/06 in O.S.26/06 and that Exts.P1 and P2 orders shall not be relied on in C.C.664/73 by Taluk Land Board.

2. Heard counsel for both sides.

3. Now the contention of the plaintiff in the suit is that he is a sub lessee under the predecessors of the writ petitioners and that they are entitled to fixity of tenure and that a prayer for injunction is made in the suit to restrain the defendants from entering into the suit property. There are certificates of purchase issued in their favour on the basis of land tribunal orders. There is observation by this Court while disposing of C.R.P.1490/91 that the approach made by the Tribunal when matter is pending before the land board is not appropriate and correct and lastly in a revision filed by the present plaintiffs this Court as per order in C.R.P.2115/91 dated 31.1.2003 remanded the matter to consider the question of tenancy. So, after these things, a suit is instituted in the year 2006 before the Munsiff Court, Chittur for an injunction and both the trial court as well as the

appellate court had granted an order of injunction. In exercising jurisdiction under Art.226 or 227 this Court may not be justified in going into the re-appraisal of the entire facts to find out the correctness of the fact finding unless it is so perverse. Therefore, there can be a direction to dispose of the suit itself by the court below untrammelled by the observations made in the judgment of that court in the injunction application as well as that of the appellate court. Needless to say that Taluk Land Board is an independent body constituted under the provisions of the Kerala Land Reforms Act and the Apex Court has held very clearly that it has got the power to decide question of tenancy even when land tribunal has found on the question of tenancy. Needless to remind the Taluk Land Board of its power in adjudicating the matter independently. Therefore, the writ petition is disposed of directing the court below to dispose of the suit as and when it is ripen for trial, untrammelled by the observations made in the judgment of the said court as well as the appellate court and further direction that the Taluk Land Board shall decide independently the question of tenancy which is the subject matter pending. The land board has to approach the subject in the light of two judgments of this Court in C.R.P.2115/91 and 1490/91. The

land board need not be guided by any observations made in the interim orders passed in the suit because they are only of interim nature and the final outcome is only when the suit is finally disposed of. The other facts regarding factum of injunction, the finding of the trial court is not disturbed. Writ petition is disposed of accordingly.

M.N.KRISHNAN
Judge

jj